IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.Rev.Pet.No. 2480 of 2007()

AGAINST THE ORDER DATED 02/06/2007 IN CMP 579/2007 IN CC.5/2005 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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REVN. PETITIONER: (COUNTER PETITIONER/ACCUSED):

MEHAMOOD,
PARTNER, HYDEL CORPORATION,
THELLICHERY, KANNUR.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: (PETITIONER/COMPLAINANT & STATE):

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1. KELACHANDRA PIPE INDUSTRIES,
CHINGAVANAM, REPRESENTED BY
POWER OF ATTORNEY
HOLDER A.K.GEORGEKUTTY.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. No. 2480 OF 2007

Dated this the 26th day of June, 2007

O R D E R

Petitioner, who is the accused in C.C.No.5/2005 on the file of JFCM-II(Mobile), Kottayam for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, challenges the order dated 2.6.2007 passed by the said Magistrate in C.M.P.No.579/2007 allowing the application filed by the complainant for summoning certain documents by invoking section 311 Cr.P.C.

2. The learned counsel for the revision petitioner would submit that the learned Magistrate has been unduly indulgent towards the complainant as this was the 3rd application filed by the complainant for summoning the documents and witnesses.

3. No doubt, the petition under section 311 Cr.P.C. was filed belatedly which justifies the order of the Magistrate putting the complainant on terms. But at the same time, the Magistrate, on a perusal of the records, was convinced that the complainant had by mistake proved bank records pertaining to the first presentation and dishonour of the cheque in question in respect of which there

were two presentations and dishonour earlier without being followed by any prosecution. Hence, the Magistrate was of the view that the interests of justice required that the records pertaining to the last of the presentations and dishonour leading to the prosecution on hand should come before the court. I do not see any good ground to interfere with the discretion exercised by the Magistrate in favour of the complainant.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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